

**BEFORE THE  
PHYSICIAN ASSISTANT COMMITTEE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation**

**Against:**

**THOMAS MURRAY GROTEWOLD, P.A.**

**Physician Assistant**

**License No. PA-10775**

**Respondent.**

**Case No. 1E-2005-165770**

**OAH No: L2006010115**

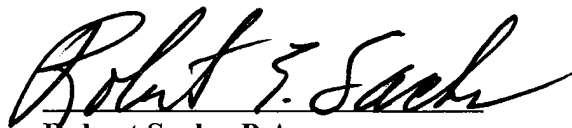
**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted as the Decision and Order by the Physician Assistant Committee of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 16, 2006.

DATED May 17, 2006.

**PHYSICIAN ASSISTANT COMMITTEE**



**Robert Sachs, P.A.**

**Chair**

BEFORE THE  
PHYSICIAN ASSISTANT COMMITTEE  
MEDICAL BOARD OF CALIFORNIA  
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In the Matter of the Accusation Against:

THOMAS MURRAY GROTEWOLD, P.A.  
1907 E. Washington Boulevard  
Los Angeles, California 90021

Physician Assistant License No. PA-10775

Respondent.

Case No. 1E-2005-165770

OAH No. L2006010115

**PROPOSED DECISION**

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Los Angeles, California, on April 18, 2006.

Complainant Richard L. Wallinder, Jr., Executive Officer of the Physician Assistant Committee, was represented by Cindy M. Lopez, Deputy Attorney General.

Respondent Thomas Grotewold was present and was represented by Andrew Schwartz, Attorney at Law.

The matter was submitted for decision on April 18, 2006.

**FACTUAL FINDINGS**

License History

1. On November 10, 1980, the Physician Assistant Committee issued physician assistant license number PA-10775 to respondent Thomas Murray Grotewold. The license has been renewed through August 31, 2007.

2. On August 4, 1995, respondent's license was placed on probation for three years after he was convicted and placed on three years' criminal probation in 1994 for

possession of narcotics for sale, planting marijuana, and selling controlled substances. No evidence was presented regarding the conditions of respondent's license probation or his compliance with those conditions. In the absence of such evidence, it must be presumed that respondent satisfactorily complied with the probation terms.

### Criminal Convictions

3. On August 1, 2005, respondent was convicted in Los Angeles County, on his plea of nolo contendere, of a felony violation of Health and Safety Code section 11377, subdivision (a), possession of a controlled substance. On August 8, 2005, imposition of sentence was suspended and respondent was placed on probation for three years under the terms and conditions of Proposition 36 (Penal Code section 1210.1). Among other conditions, respondent was required to enroll in a Proposition 36 drug treatment program, to pay fines and fees totaling \$535, to submit to periodic drug testing, and to "submit to urinalysis testing whenever requested to do so by any peace officer."

4. On February 17, 2006, respondent was convicted in Ventura County, on his plea of guilty, of a felony violation of Health and Safety Code section 11377, subdivision (a). Imposition of sentence was suspended and respondent was placed on probation for three years under Proposition 36. Among other conditions, respondent was required to participate in a drug treatment program, to pay fines and fees totaling \$1,398 plus formal probation fees of \$116 per month, and to consent to any tests to determine the presence of controlled substances.

### Facts and Circumstances of Convictions

5. Ventura County conviction – On April 3, 2005, an officer from the Simi Valley Police Department conducted a routine traffic stop. Respondent was a passenger in a car registered to him and driven by a friend. The officer noticed two open bags in plain view on the floor of the car. He asked respondent and the driver to get out of the car. He then noticed that the bags had been zipped and shoved under the passenger seat.

The officer searched the bags. The first bag had a glass pipe with residue of methamphetamine, a small plastic baggie with marijuana, a small scale, and a wooden box with a lock. Inside the box were a grinder containing cocaine, a baggie containing methamphetamine, several straws with narcotic residue, a glass methamphetamine pipe with residue, a brown glass vial containing an unknown liquid, and two plastic baggies containing a white crystal substance.

The second bag had a glass methamphetamine pipe, a small amount of marijuana, and prescription bottles with respondent's name on them. The officer asked to whom these things belonged. Respondent said they did not belong to the driver, then claimed they belonged to a girl who borrowed his car. Respondent was arrested for possession of cocaine, methamphetamine, and marijuana.

6. Los Angeles County conviction – Less than four months after his arrest in Simi Valley, respondent was arrested after a routine traffic stop in South Gate on July 28, 2005. Respondent could not provide registration papers because he did not own the car. A police officer had respondent get out of the car and asked for permission to search it. A second officer searched the passenger compartment and found a small ziplock baggie with a small amount of crystal methamphetamine. There were also several methamphetamine pipes and a torch commonly used to prepare methamphetamine for ingestion.

While respondent was being handcuffed, the officers recovered from his left hand a white plastic bindle containing crystal methamphetamine. Respondent was arrested for possession of controlled substances.

#### Refusal to Provide Urine Sample

7. On September 1, 2005, Medical Board investigator Christopher Figueroa interviewed respondent. Medical Board investigators are peace officers. Because respondent did not wish to be interviewed at his place of employment, the interview took place over lunch at a fast food restaurant. Figueroa introduced himself to respondent as an investigator for the board. He asked respondent to tell him about his two recent arrests. After listening to respondent's explanations, Figueroa explained what actions might follow. Respondent asserts that Figueroa became very "judgmental" and "condescending" and told him that the committee might issue an Interim Suspension Order against him, and that it might seek to revoke his license. Respondent became upset and said he had better get a lawyer. Figueroa pulled out a drug test kit and requested that respondent provide a urine sample. Respondent refused, saying he had just given a sample the day before (in his drug rehabilitation program). Figueroa asked respondent if he was aware that the terms of his criminal probation required him to provide a urine sample whenever requested by a peace officer. When respondent said he was aware of this, Figueroa asked him if he was still refusing to provide a sample. Respondent said, "yes" and walked out of the restaurant.

8. Although respondent knew Figueroa was an investigator for the Medical Board, he asserts he did not know he was a "peace officer." Figueroa, who was dressed casually, never identified himself as such, and respondent testified he believed a peace officer meant "a cop." He says he did not feel he was required to provide a urine sample to Figueroa but concedes he did not tell Figueroa that; he just walked out.

#### Respondent's Employment

9. Respondent is 54 years old. He has been employed as a physician assistant at the Alameda Industrial Medical Group for the past 26 years. The medical group is owned by Robert C. Rossberg, M.D. No other physicians are employed at the 24-hour clinic. Dr. Rossberg works days with another physician assistant. Respondent provides night coverage. He works from about 6:00 p.m. to 7:00 a.m. No other staff members are present

during those hours. The clinic provides primary care for minor industrial injuries. During his shift, respondent treats injuries, does drug screens, and sometimes performs physicals. Respondent also sometimes works as a fill-in at another clinic.

10. Dr. Rossberg describes respondent as a good employee who is "very skilled." He has little contact with respondent, sometimes seeing him in the morning when respondent is getting off work or in the evening when he is just starting. Dr. Rossberg has no complaints about respondent's medical skills. His only concern about respondent's work is that he has "a tendency to be late." The only customer complaints he has received are that sometimes at night respondent is not dressed very professionally. But Dr. Rossberg attributes this to the fact that respondent sleeps at the clinic and sometimes has to be awakened if patients come in.

11. Dr. Rossberg knew respondent had some convictions, but he did not know the details of them. Until the hearing, he did not know that respondent had been arrested for possessing methamphetamine, marijuana, cocaine, and narcotics paraphernalia. He acknowledged that this "doesn't make me think well of him," and that patient harm could occur if respondent were to treat someone while under the influence of a controlled substance. But Dr. Rossberg has never seen respondent act in a way that made him suspect he was under the influence of drugs.

#### Other Matters

12. As a condition of his probation from Los Angeles County, respondent was required to participate in a Proposition 36 drug treatment program. This involved going to class two days a week, attending 12-step meetings three times a week, and appearing in court monthly. Respondent testified he was subject to drug testing at each class and at each court appearance. He maintains he never had a positive drug test. As evidence of that, respondent points to the fact that he is now in the aftercare program and is no longer required to attend class twice a week and court once a month. Now, he is only required to meet monthly with a counselor. That has been his status since March 2006. He still attends 12-step meetings three times a week.

13. Although the conditions of his Ventura County probation also require him to participate in a Proposition 36 drug treatment program, the details have not yet been worked out. Respondent does not know whether the court in Ventura County will accept the Los Angeles County program as meeting this requirement. He has another court appearance scheduled in about a month.

14. Respondent's attitude at the hearing was somewhat dismissive of the proceeding. He believes the criminal court probations are addressing whatever issues he has and does not see any real reason why his license should be disciplined. He tends to rely on the fact that he was sentenced under Proposition 36, which emphasizes rehabilitation over punishment for drug offenders.

15. Other than stipulating to the facts and circumstances of his offenses as set forth in Findings 5 and 6, respondent offered no evidence explaining his involvement in what appears to have been rather extensive drug use. Nor did he offer any evidence, other than his court-ordered involvement in a drug treatment program, concerning any efforts he might be making to change his conduct. Except for the testimony of Dr. Rossberg, who had been unaware of the details of respondent's drug crimes, respondent presented no evidence from others who might be able to vouch for respondent's character, his 12-step program involvement, and his drug treatment efforts in general.

#### Costs

16. The Physician Assistant Committee has incurred investigative costs of \$2,509.60 in this case. This is based upon 23.15 hours expended by Figueroa traveling to obtain court documents and to interview witnesses and respondent, conducting interviews, and preparing reports. The time spent and costs incurred are found to be reasonable. No evidence of attorneys' fees was presented.

### LEGAL CONCLUSIONS

#### First Cause for Discipline

1. Business and Professions Code sections 3527, subdivision (a), and 2234, subdivision (a), provide that a physician assistant is subject to discipline for unprofessional conduct, which is defined to include violations of the Medical Practice Act. Complainant asserts respondent is subject to discipline under these sections because he was convicted of possessing controlled substances, was found to be in possession of controlled substances, and "violated his criminal probation by refusing to submit a urine sample."

2. Based upon his convictions and his possession of controlled substances, cause for disciplinary action against respondent exists pursuant to Business and Professions Code sections 3527, subdivision (a), and 2234, subdivision (a), in that respondent violated the following provisions of the Medical Practice Act: section 2236, subdivision (a) (conviction of a substantially-related offense), section 2237, subdivision (a) (conviction of violating a law regulating controlled substances), and section 2238 (violation of laws regulating controlled substances).

3. Whether or not respondent "violated his criminal probation" by refusing to submit a urine sample when requested to do so by Figueroa is a determination to be made by the criminal court. In this proceeding, however, it is concluded that respondent's refusal to provide that sample constituted unprofessional conduct within the meaning of Business and Professions Code sections 3527, subdivision (a), and 2234, subdivision (a), and cause for discipline exists under those sections. Respondent knew Figueroa was an investigator for the Medical Board. He cooperated with Figueroa during the interview until Figueroa, in

respondent's estimation, became judgmental and condescending. This upset respondent, and he thereafter refused to provide a urine sample. Respondent's current assertion that he did not know Figueroa was a peace officer entitled to require a urine sample is a convenient explanation for his failure to cooperate, but was not the true reason. Respondent refused to provide the sample because he was upset with Figueroa's attitude, coupled with the fact he had given a urine sample the previous day in his drug treatment program. Respondent was willfully uncooperative with the investigator, which constitutes unprofessional conduct.

#### Second Cause for Discipline

4. Business and Professions Code section 2234, subdivision (e), provides that commission of any substantially-related act involving dishonesty or corruption constitutes unprofessional conduct. Complainant asserts respondent is subject to disciplinary action under this section in conjunction with section 3527, subdivision (a), because he was convicted of possessing controlled substances, was found to be in possession of controlled substances, and refused to submit a urine sample.

5. No cause for disciplinary action under these sections was established. Although respondent was guilty of all the acts alleged, it was not shown that any of these acts involved dishonesty or corruption, the latter a term that connotes moral degeneracy and perversion.<sup>1</sup>

#### Third Cause for Discipline

6. Business and Professions Code sections 490 and 2236, subdivision (a), provide that a license may be disciplined for conviction of a crime that is substantially related to the qualifications, functions or duties of the licensed profession. Section 2237, subdivision (a), provides that a license may be disciplined for conviction of violating any federal or state statute regulating dangerous drugs or controlled substances. Cause for disciplinary action against respondent exists under each of these sections by reason of the convictions set forth in Findings 3 and 4.

#### Fourth Cause for Discipline

7. Business and Professions Code section 2238 provides that a license may be disciplined for violation of any federal or state statute regulating dangerous drugs or controlled substances. Cause for disciplinary action against respondent exists under this section by reason of the matters set forth in Findings 3 through 6. However, it was not established, as alleged, that respondent's refusal to submit a urine sample also constituted a violation of a drug statute.

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<sup>1</sup> Webster's New Collegiate Dictionary (1979) p. 253.

### Costs

8. Business and Professions Code section 125.3 provides that a licensee found to have committed a violation or violations of the licensing act may be required to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. Cause exists under this section to require respondent to pay the reasonable costs set forth in Finding 16 – \$2,509.60.

### Penalty Determination

9. The committee has established criteria for evaluating the rehabilitation of licensees who have been convicted of crimes. Those criteria, set forth in title 16, California Code of Regulations, section 1399.527, provide that the following factors are to be considered: the nature and severity of the acts or offenses, total criminal record, the time that has elapsed since commission of the acts or offenses, whether the licensee has complied with any terms of probation, evidence of expungement proceedings pursuant to Penal Code section 1203.4, and any evidence of rehabilitation submitted by the licensee.

10. Respondent's offenses were quite severe. Within a period of four months he was twice arrested and found to be in possession of controlled substances – marijuana, cocaine, and methamphetamine on the first occasion and methamphetamine on the second – and narcotics paraphernalia. Respondent's criminal record shows an earlier conviction for sale and possession for sale of narcotics. A little over one year has elapsed since the first of respondent's two recent offenses, and just nine months since the second; his most recent conviction was just two months before the hearing in this case, and his earlier conviction was eight months before the hearing. Respondent is in compliance with his criminal probation but, as noted, the history of that compliance is short since it went into effect only eight months ago. Respondent has submitted little evidence of rehabilitation. Other than his participation in the court-ordered drug treatment program (and attendant 12-step program), respondent presented little to assure the committee that he is making efforts to avoid falling again into drug use.

Respondent's attitude towards these proceedings and the committee's responsibility for overseeing his license do not bode well for his being a successful probationer. In addition, while respondent appears to have practiced successfully as a physician assistant for 26 years, the circumstances of his employment raise concerns. Respondent is not under the direct supervision of a physician, and is in fact the only staff member on his overnight shift at the medical clinic where he works. Were respondent to be under the influence of controlled substances during his shift, no other medical professional would be available to observe this. Thus, the potential risk of patient harm is high.

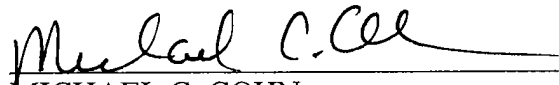
Considering all these facts, it is determined that protection of the public interest demands revocation of respondent's physician assistant license.



ORDER

Physician assistant license number PA-10775 issued to respondent Thomas Murray Grotewold is revoked.

DATED: April 24, 2006

  
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MICHAEL C. COHN  
Administrative Law Judge  
Office of Administrative Hearings